BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

KENNETH N. ANDREWS Claimant	}
VS.) Docket No. 158,135
BLACKBURN, INC.) DOCKET NO. 100,100
Respondent AND	}
INSURANCE COMPANY OF NORTH AMERICA Insurance Carrier	}

ORDER

ON July 28, 1994, respondent's application for review of an Order entered by Administrative Law Judge John D. Clark, dated June 14, 1994, came on for oral argument.

APPEARANCES

The claimant appeared by and through his attorney, Robert L. Nicklin of Wichita, Kansas. The respondent and its insurance carrier appeared by and through their attorney, Douglas C. Hobbs of Wichita, Kansas. There were no other appearances.

RECORD

The record considered by the Appeals Board includes the transcript of the December 16, 1993 hearing on claimant's Application for Penalties, the transcript of the Preliminary Hearing of June 14, 1994, exhibits attached to each transcript, and the pleadings and prior orders of record in this claim.

ISSUES

The respondent appeals from an Award of Penalties in the amount of \$125.00 and attorney fees in the amount of \$250.00.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The respondent has been ordered to pay \$125.00 in penalties and \$250.00 in attorney fees following a hearing which reflected that respondent had failed to pay certain mileage and medical expenses previously ordered. The dispute appeared to have arisen originally because the respondent was not aware that claimant was incurring mileage and medical expenses. However, respondent did fail to pay same within twenty (20) days after the demand. The attorney fees were ordered because this is a post-award proceeding for medical treatment and possible further review and modification. Upon review of the arguments and transcript, the Appeals Board finds the award to be appropriate under the circumstances.

IT IS SO ORDERED.

The Appeals Board notes that claimant has made a request for an additional \$500.00 in attorney fees in connection with the appeal. As provided in K.S.A. 44-536(h) disputes regarding attorney fees are to be addressed first by the Administrative Law Judge. This would include the request for attorney fees in connection with this appeal.

Accordingly, the award of \$125.00 in penalties and \$250.00 in attorney fees is

Accordingly, the award of \$125.00 in penalties and \$250.00 in attorney fees is affirmed. The action is otherwise remanded to the Administrative Law Judge for further proceedings including, if necessary, proceedings relating to the request for additional attorney fees in connection with the appeal.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark, dated June 14, 1994, is hereby affirmed.

Dated this day of O	ctober, 1994.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Robert L. Nicklin, PO Box 1680, Wichita, KS 67201 Douglas C. Hobbs, 600 Epic Center, 301 N. Main, Wichita, KS 67202 John D. Clark, Administrative Law Judge George Gomez, Director